| SOUTHERN DISTRICT OF NEW YORK | | |
|-------------------------------|-----|------------------------------|
| | - X | MH8329 |
| CHETNA HARISH SHAH, | : | |
| | : | Civil Action No. |
| Plaintiff, | : | 08 CV 7371 (GEL) |
| | : | |
| - against - | ; | |
| KUWAIT AIRWAYS CORPORATION, | : | ANSWER TO ENDORSED COMPLAINT |
| Defendant. | : | |
| | : | |
| | : | |
| | : | |
| | - X | |

Defendant KUWAIT AIRWAYS CORPORATION (hereinafter referred to as "KUWAIT AIRWAYS"), by and through its attorneys Condon & Forsyth LLP, as and for its Answer to the Endorsed Complaint:

1. Denies the allegations in the Endorsed Complaint.

AS AND FOR A FIRST SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE

2. The Endorsed Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE

3. The transportation out of which the subject matter of this action arose was "international carriage" within the meaning of the Convention for the Unification of Certain Rules Relating to Transportation by Air, October 12, 1929, 49 Stat. 3000, T.S. No. 876, 137 L.N.T.S. 11 (1934), as amended at the Hague, 1955 and by Protocol No. 4 of Montreal, 1975 (hereinafter "Warsaw Convention") and the rights of the parties are subject to, limited by or

Case 1:08-cv-07371-GEL Document 3 Filed 08/21/2008 Page 2 of 4

barred pursuant to the provisions of the Warsaw Convention.

4. The liability of defendant KUWAIT AIRWAYS, if any, is limited in

accordance with Article 22 of the Warsaw Convention to the sum of \$20.00 per kilo for lost,

damaged or pilfered baggage.

AS AND FOR A THIRD SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE

5. Defendant KUWAIT AIRWAYS' liability is excluded or limited by the terms

and conditions of KUWAIT AIRWAYS' tariffs on file with the United States Department of

Transportation and by KUWAIT AIRWAYS' conditions of carriage and conditions of

contract.

WHEREFORE, defendant KUWAIT AIRWAYS CORPORATION demands

judgment dismissing the Endorsed Complaint in its entirety or, if such relief not be granted, that

is liability be limited as prayed herein, together with the costs and disbursements of this action

and such other and further relief which this Court deems just and proper.

Dated: New York, New York

August 20, 2008

CONDON & FORSYTH LLP

Michael J. Holland

MH 8329

A Partner of the Firm

Attorney for Defendant

KUWAIT AIRWAYS CORP.

7 Times Square

New York, New York 10036

(212) 490-9100

-2-

TO: Mrs. Chetna Harish Shah Plaintiff Pro Se 68 West 238th Street Apartment E3 Bronx, New York 11463-4247 (718) 543-4247 Case 1:08-cv-07371-GEL Document 3 Filed 08/21/2008 Page 4 of 4

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK

COUNTY OF NEW YORK)

Mary Ann Rooney, being duly sworn, deposes and says that deponent is not a party to

the action, is over 18 years of age and resides in Queens, New York. That on the 20th day of

August, 2008 deponent served the within Answer upon:

) ss:

Mrs. Chetna Harish Shah

68 West 238th Street

Apartment E3

Bronx, New York 11463-4247

At the addresses designated by said individual for that purpose by depositing

same enclosed in a postpaid properly addressed wrapper, in an official depository under

the exclusive care and custody of the United States Post Office Department within the

State of New York.

Sworn to before me this 20th day of August, 2008

Notary Public

MICHAEL J HOLLAND Notary Public, State of New York No. 41-4501283

Qualified in Nassau County Commission Expires August 31, 2009